

REMARKS

In the Office Action dated May 21, 2004, the Examiner rejected claims 1-49 under 35 U.S.C. § 103 as being unpatentable over *Goldman et al.* (U.S. Patent No. 6,134,235) in view of *Nimmagadda* (newly cited, U.S. Patent No. 6,426,961). Applicants respectfully submit that neither *Goldman et al.* nor *Nimmagadda*, alone or in combination, anticipate or render obvious the presently claimed invention for the reasons given below.

Goldman et al. disclose a system and method for bridging the POTS network and a packet network, such as the Internet, using a set of access objects that provide the interfacing and functionality for exchanging address and payload information with the packet network, and for exchanging payload information with the payload subnetwork and signaling information with the signaling subnetwork of the POTS network. The system and method disclosed by *Goldman et al.*, however, do not have a switch that distinguishes between voice and data payloads for routing traffic on different voice and data paths. Instead, in the system and method of *Goldman et al.*, all payload traffic (regardless of whether such payload traffic contains voice or data information) is routed between the POTS network and the packet network via a single common POTS/packet bridge. *See, e.g.*, FIG. 1 of the *Goldman et al.* reference.

Nimmagadda discloses a method and system for use in connection with an asymmetrical digital subscriber line (ADSL) system that provides voice and data service to a customer's premises. More specifically, *Nimmagadda* discloses a splitter 20 for separating ("splitting") voice and data signals, with voice signals being passed on to a central office switch 16 that is in turn connected to the PSTN, and with data signals being passed on to an ADSL modem 18 that is in turn connected to an Internet Service Provider. *See, e.g.*, FIG. 5 of *Nimmagadda* reference.

In contrast, the presently claimed invention recites a method and system architecture for a central office that utilizes separate devices (i.e., a telephony gateway and a remote access server) and separate pathways to convert voice and data (e.g., modem) signals/calls into IP packets (and vice versa). In the presently claimed invention, the central office switch differentiates between voice and data calls, and routes such calls to the appropriate conversion device (i.e., the telephony gateway or the remote access server) based on whether the calls contain voice or data information. Consequently, neither *Goldman et al.* and their single common POTS/packet bridge, nor *Nimmagadda* and its voice/data splitter, anticipate or render obvious the presently claimed invention, alone or in combination.

As set forth above, *Nimmagadda* does not disclose a switch which differentiates between voice signals and data signals and routes the signals to the appropriate conversion device (i.e., telephony gateway or remote access server), as represented by the Examiner. Instead, *Nimmagadda* discloses a splitter 20, which unlike the claimed switch, does not differentiate between voice signals and data signals and then route them to an appropriate conversion device. Rather, the splitter of *Nimmagadda* merely separates voice and data signals from each other. Switches and splitters are well known in the art to be two different types of devices.

Indeed, the actual switch in *Nimmagadda* is the central office switch 16, which is connected to the PSTN. The switch of *Nimmagadda*, however, receives only voice signals, and therefore does not differentiate between voice signals and data signals or route the signals to an appropriate conversion device. Moreover, contrary to the Examiner's representations, the central office switch 16 disclosed by *Nimmagadda* is not a telephony gateway, as recited in the presently claimed invention, and it does not convert voice signals into IP packets or IP packets into voice

signals. On the contrary, the central office switch 16 in *Nimmagadda* maintains the voice signals as voice signals, and passes them over to telephones 109 on the PSTN.

Even if *Nimmagadda* did disclose the claimed switch, however, it would be improper to combine *Nimmagadda* and *Goldman et al.* under 35 U.S.C. § 103. In order to combine these references, there must be a clear teaching or suggestion to make the combination. *In re Dembiczak*, 175 F.3d 994, 999 (Fed. Cir. 1999). For a combination of references to be proper, the Office Action must provide a showing of a teaching or motivation to combine the references. *Id.* That "showing must be clear and particular." *Id.* Here, the Office Action has provided no showing of any teaching or suggestion to combine the *Nimmagadda* and *Goldman et al.* references, let alone a "clear and particular showing."

Indeed, such a combination is wholly impermissible, as it would render the system of *Goldman et al.* incapable of performing its intended function of bridging the POTS network and a packet network. *See In re Gordon*, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984) (if a proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification). To perform this bridging, *Goldman et al.* require the use of a set of access objects that provides the interfacing and functionality for exchanging address and payload information with the packet network, and for exchanging payload information with the payload subnetwork and signaling information with the signaling subnetwork of the POTS network. Not only does the set of access objects disclosed by *Goldman et al.* function independent of whether its payload traffic contains voice or data information, its **requires** that all payload traffic (whether voice or data) between the POTS network and the packet network pass through the set of access objects (and not on some

other path or through some other device).

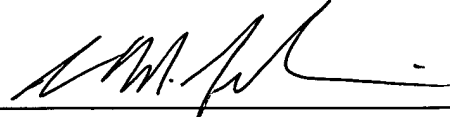
The Office Action appears to rely on the knowledge of one of ordinary skill in the art to make the combination. In this regard, it is improper to simply recite the knowledge of one of ordinary skill in the art. Rejections under Section 103 must be based on evidence. *In re Lee*, 277 F.3d 1338, 1342-43 (Fed. Cir. 2002). "The factual inquiry whether to combine references must be thorough and searching," and simply reciting common knowledge is not a substitute for evidence of a teaching, motivation, or suggestion to combine references. *Id.* at 1343. Here, there is no evidence of a teaching, motivation, or suggestion to combine *Goldman et al.* with *Nimmagadda*, as the Examiner has proposed. On the contrary, as demonstrated above, there is only a teaching against making such a combination.

Accordingly, Applicants respectfully request that the Examiner withdraw the rejection of the claims under 35 U.S.C. § 103. Applicants also believe the present claims to be in condition for allowance, and earnestly request early notification of same.

If, for any reason, the Examiner is unable to allow the application on the basis of this response, and feels that a telephone conference would help clear up any unresolved matters, the Examiner is respectfully requested to contact the undersigned attorney at the telephone number listed below.

Respectfully submitted,

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